

AMENDED IN SENATE SEPTEMBER 4, 2003

AMENDED IN SENATE JULY 24, 2003

AMENDED IN SENATE JUNE 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1760

Introduced by Committee on Budget (Oropeza (Chair), Bermudez, Chan, Chu, Diaz, Dutra, Dymally, Goldberg, Hancock, Jackson, Liu, Montanez, Nakano, Pavley, Reyes, Simitian, and Wolk)

March 11, 2003

An act to *amend Sections 13903 and 13957.7 of*, to amend, repeal, and add Section 13957 of, and to add and repeal Section 13964.5 of, the Government Code, ~~and to amend Section 2085.5 of~~, and to amend, repeal, and add Sections 1001.90 ~~and 1202.4~~ *1202.4, and 2085.5* of the Penal Code, relating to victims of crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1760, as amended, Committee on Budget. Victims of crimes.

(1) Existing law provides for the indemnification of victims of specified types of crimes by the California Victim Compensation and Government Claims Board.

The bill would require the California Victim Compensation and Government Claims Board, in January of each year, until January 1, 2007, to determine whether sufficient funds will be available in the following fiscal year to pay all payments authorized and if the board determines that there will be insufficient funds, the board would be required to determine the percentage necessary to reduce awards and

payments, as specified. Payments that would be reduced pursuant to this provision would be deemed to be payment in full of the authorized reimbursement.

(2) *Existing law provides that the Director of General Services is the chairman of the California Victim Compensation and Government Claims Board.*

This bill would make the Secretary of the State and Consumer Services Agency the chair of that board, effective January 1, 2004.

(3) Existing law provides that the total award to or on behalf of each victim or derivative victim of a crime may not exceed \$35,000, except that the amount may be increased to \$70,000 if federal funds for that increase are available. *In addition, existing law authorizes the board to pay up to \$2,000 to a victim for relocation expenses, if determined necessary for the personal safety or emotional well-being of the victim, as specified, and limits this authorization to once per victim, except as provided.*

This bill would provide the total aggregate award to a victim and all derivative victims who sustain a loss as a result of the crime against the victim may not exceed this amount, except in the case where a victim is permanently disabled as a direct result of the crime. The bill would provide that a victim who is permanently disabled as a direct result of the crime would be individually eligible for the amount specified in existing law and a separate limit of \$70,000 would apply to the aggregate losses of all derivative victims deriving from that crime. *This bill would limit relocation payments to \$2,000 per household rather than per victim, and would limit this authority to one payment or reimbursement per household, except as specified.* These provisions would remain in effect until their repeal on January 1, 2007, on which date existing law would again become operative.

~~(3)~~

(4) *Existing law provides that a person whose application for an award of victim compensation has been recommended for denial in whole or in part by staff may appeal to the board, and that the board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less, for each victim and each derivative victim, as specified. Existing law provides that an attorney receiving fees from another source may waive the right to receive these fees.*

This bill would specify that (a) these attorney's fees could be awarded only if the applicant receives compensation greater than is recommended after his or her application has been recommended for denial in whole or part, (b) that the amount of the attorney's fees cannot exceed the lesser of 10% of the amount of compensation or \$500, rather than being equal to the lesser of those amounts, and (c) that an attorney receiving fees from another source necessarily waives any right to receive fees under these provisions.

(5) Existing law requires the court to impose a diversion restitution fee that is commensurate with the seriousness of the offense on a criminal defendant whose case is diverted *of not less than \$100 nor more than \$1,000*, as specified. Existing law authorizes the court to waive the diversion restitution fee if there are compelling and extraordinary reasons. *Existing law also requires a court to impose a restitution fine on any person convicted of a crime of not less than \$200 nor more than \$10,000 for a felony, and not less than \$100 nor more than \$1,000 for a misdemeanor.*

This bill would increase the ~~minimum~~ amount of a diversion restitution fee to not less than \$300 and not more than ~~\$1,000~~ \$10,000 if the person is charged with a felony, and not less than ~~\$150~~ \$200 and not more than \$1,000 if the person is charged with a misdemeanor, *and would require courts to set restitution fines within the same ranges.* ~~The bill would provide that a defendant's ability to pay may be considered in imposing a fine in excess of the statutory minimum. The bill would authorize a court to impose a restitution fine that is less than the statutory minimum if it finds that a defendant is unable to pay the statutory minimum. The bill would also prohibit a court from staying the restitution fee after it is imposed.~~ These provisions would remain in effect until their repeal on January 1, 2007, on which date existing law would again become operative.

~~(4)~~

(6) Existing law requires the Director of Corrections to deduct a minimum of 20% or the balance owing on the fine amount, whichever is less, up to a maximum of 50% from the wages and trust account deposits of a prisoner who owes a restitution fine and requires that this amount, unless prohibited by federal law, be transferred to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Existing law also requires the director to deduct and retain from a prisoner's wages and trust account deposits ~~or~~, *and authorizes the director to deduct and*

retain from any moneys collected from a parolee, an administrative fee that totals 10% of the amount transferred to the board pursuant to specified *restitution and restitution fine* provisions, unless prohibited by federal law.

This bill would decrease the maximum deduction *for restitution and restitution fine purposes* from a prisoner's wages and trust account deposits to 30% ~~and, would decrease~~ *provide that, until July 1, 2008, the administrative fee for on these restitution payments by prisoners or parolees to 5% may be up to 10%, and would set that administrative fee thereafter at 5% for prisoners and 10% for parolees.*

~~(5)~~

Existing law provides that the Director of Corrections may retain any excess funds from these deductions for future reimbursement of the department's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

This bill would repeal that authority.

(7) This bill would also require the Department of Corrections, commencing with the 2004–05 budget, to include in the Governor's budget a display of revenue and expenditures for these administrative fees, and would indicate, commencing with the 2004–05 fiscal year, that the fees may be expended only upon appropriation.

(8) The Restitution Fund is continuously appropriated to the Victim Compensation and Government Claims Board for the purpose of indemnifying victims of crime.

This bill would make an appropriation by increasing the fees deposited in the Restitution Fund that are subject to continuous appropriation.

~~(6)~~

(9) The bill would require the Administrative Office of the Courts to establish a workgroup composed of a specified membership to review the current policies and processes by which criminal fines and penalties are imposed by the courts. The bill would require the workgroup to report its findings and recommendations to the Legislature no later than February 1, 2004.

~~(7)~~

(10) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. *Section 13903 of the Government Code is amended to read:*

13903. ~~The Director of General Services is chairman~~
Secretary of the State and Consumer Services Agency shall serve as chair of the board.

SEC. 2. Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten

1 thousand dollars (\$10,000) for not more than two derivative
2 victims.

3 (B) The following persons may be reimbursed for the expense
4 of their outpatient mental health counseling in an amount not to
5 exceed three thousand dollars (\$3,000):

6 (i) A derivative victim not eligible for reimbursement pursuant
7 to subparagraph (A), provided that mental health counseling of a
8 derivative victim described in paragraph (5) of subdivision (c) of
9 Section 13955, shall be reimbursed only if that counseling is
10 necessary for the treatment of the victim.

11 (ii) A victim of a crime of unlawful sexual intercourse with a
12 minor committed in violation of subdivision (d) of Section 261.5
13 of the Penal Code. A derivative victim of a crime committed in
14 violation of subdivision (d) of Section 261.5 of the Penal Code
15 shall not be eligible for reimbursement of mental health
16 counseling expenses. The total award to or on behalf of a victim
17 of a crime committed in violation of subdivision (d) of Section
18 261.5 of the Penal Code may not exceed three thousand dollars
19 (\$3,000) for mental health counseling expenses only.

20 (C) The board may reimburse a victim or derivative victim for
21 outpatient mental health counseling in excess of that authorized by
22 subparagraphs (A) or (B) or for inpatient psychiatric,
23 psychological, or other mental health counseling if the claim is
24 based on dire or exceptional circumstances that require more
25 extensive treatment, as approved by the board.

26 (D) Expenses for psychiatric, psychological, or other mental
27 health counseling related services may be reimbursed only if the
28 services were provided by either of the following individuals:

29 (i) A person who would have been authorized to provide those
30 services pursuant to the provisions of former Article 1
31 (commencing with Section 13959) as it read on January 1, 2002.

32 (ii) A person who is licensed by the state to provide those
33 services, or who is properly supervised by a person who is so
34 licensed, subject to the board's approval and subject to the
35 limitations and restrictions the board may impose.

36 (3) Reimburse the expenses of nonmedical remedial care and
37 treatment rendered in accordance with a religious method of
38 healing recognized by state law.

39 (4) Subject to the limitations set forth in Section 13957.5,
40 authorize compensation equal to the loss of income or loss of

support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the expense for installing or increasing residential security, not to exceed one thousand dollars (\$1,000), with respect to a crime that occurred in the victim's residence, upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) ~~to a victim~~ *per household* for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender. The cash payment or reimbursement made under this subdivision shall only be awarded once to any

1 victim *or household*, except that the board may, under compelling
2 circumstances, award a second cash payment or reimbursement to
3 the same victim *or household* if both of the following conditions
4 are met:

5 (A) The crime occurs more than three years from the date of the
6 crime giving rise to the initial relocation cash payment or
7 reimbursement.

8 (B) The crime does not involve the same offender.

9 (9) When a victim dies as a result of a crime, the board may
10 reimburse any individual who voluntarily, and without
11 anticipation of personal gain, pays or assumes the obligation to pay
12 any of the following expenses:

13 (A) The medical expenses incurred as a direct result of the
14 crime in an amount not to exceed the rates or limitations
15 established by the board.

16 (B) When the crime occurs in a residence, the reasonable costs
17 to clean the scene of the crime in an amount not to exceed one
18 thousand dollars (\$1,000). Services reimbursed pursuant to this
19 subdivision shall be performed by persons registered with the State
20 Department of Health Services as trauma scene waste practitioners
21 in accordance with Chapter 9.5 (commencing with Section
22 118321) of Part 14 of Division 104 of the Health and Safety Code.

23 (C) The funeral and burial expenses incurred as a direct result
24 of the crime, not to exceed seven thousand five hundred dollars
25 (\$7,500).

26 (b) (1) Except as otherwise provided in paragraph (2), the total
27 aggregate award to a victim and all derivative victims ~~who sustain~~
28 *sustaining* a loss as a result of the crime against that victim may not
29 exceed thirty-five thousand dollars (\$35,000), except that this
30 amount may be increased to seventy thousand dollars (\$70,000) if
31 federal funds for that increase are available.

32 (2) Subject to the limitations in Section 13957.5, but
33 notwithstanding paragraph (1) of this section, a victim
34 permanently disabled as a direct result of a crime shall be
35 individually eligible for an award in the amount limited as
36 provided in paragraph (1), and a separate limit of seventy thousand
37 dollars (\$70,000) shall apply to the aggregate losses of all
38 derivative victims that result from the crime against that
39 permanently disabled victim.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

~~SEC. 2.~~

SEC. 3. Section 13957 is added to the Government Code, to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.

1 (B) The following persons may be reimbursed for the expense
2 of their outpatient mental health counseling in an amount not to
3 exceed three thousand dollars (\$3,000):

4 (i) A derivative victim not eligible for reimbursement pursuant
5 to subparagraph (A), provided that mental health counseling of a
6 derivative victim described in paragraph (5) of subdivision (c) of
7 Section 13955, shall be reimbursed only if that counseling is
8 necessary for the treatment of the victim.

9 (ii) A victim of a crime of unlawful sexual intercourse with a
10 minor committed in violation of subdivision (d) of Section 261.5
11 of the Penal Code. A derivative victim of a crime committed in
12 violation of subdivision (d) of Section 261.5 of the Penal Code
13 shall not be eligible for reimbursement of mental health
14 counseling expenses. The total award to or on behalf of a victim
15 of a crime committed in violation of subdivision (d) of Section
16 261.5 of the Penal Code may not exceed three thousand dollars
17 (\$3,000) for mental health counseling expenses only.

18 (C) The board may reimburse a victim or derivative victim for
19 outpatient mental health counseling in excess of that authorized by
20 subparagraphs (A) or (B) or for inpatient psychiatric,
21 psychological, or other mental health counseling if the claim is
22 based on dire or exceptional circumstances that require more
23 extensive treatment, as approved by the board.

24 (D) Expenses for psychiatric, psychological, or other mental
25 health counseling related services may be reimbursed only if the
26 services were provided by either of the following individuals:

27 (i) A person who would have been authorized to provide those
28 services pursuant to the provisions of former Article 1
29 (commencing with Section 13959) as it read on January 1, 2002.

30 (ii) A person who is licensed by the state to provide those
31 services, or who is properly supervised by a person who is so
32 licensed, subject to the board's approval and subject to the
33 limitations and restrictions the board may impose.

34 (3) Reimburse the expenses of nonmedical remedial care and
35 treatment rendered in accordance with a religious method of
36 healing recognized by state law.

37 (4) Subject to the limitations set forth in Section 13957.5,
38 authorize compensation equal to the loss of income or loss of
39 support, or both, that a victim or derivative victim incurs as a direct
40 result of the victim's or derivative victim's injury or the victim's

1 death. If the victim or derivative victim requests that the board give
2 priority to reimbursement of loss of income or support, the board
3 may not pay medical expenses, or mental health counseling
4 expenses, except upon the request of the victim or derivative
5 victim or after determining that payment of these expenses will not
6 decrease the funds available for payment of loss of income or
7 support.

8 (5) Authorize a cash payment to or on behalf of the victim for
9 job retraining or similar employment-oriented services.

10 (6) Reimburse the expense for installing or increasing
11 residential security, not to exceed one thousand dollars (\$1,000),
12 with respect to a crime that occurred in the victim's residence,
13 upon verification by law enforcement to be necessary for the
14 personal safety of the victim or by a mental health treatment
15 provider to be necessary for the emotional well-being of the
16 victim. Installing or increasing residential security may include,
17 but need not be limited to, both of the following:

18 (A) Home security device or system.

19 (B) Replacing or increasing the number of locks.

20 (7) Reimburse the expense of renovating or retrofitting a
21 victim's residence or a vehicle, or both, to make the residence, the
22 vehicle, or both, accessible or the vehicle operational by a victim
23 upon verification that the expense is medically necessary for a
24 victim who is permanently disabled as a direct result of the crime,
25 whether the disability is partial or total.

26 (8) Authorize a cash payment or reimbursement not to exceed
27 two thousand dollars (\$2,000) to a victim for expenses incurred in
28 relocating, if the expenses are determined by law enforcement to
29 be necessary for the personal safety of the victim or by a mental
30 health treatment provider to be necessary for the emotional
31 well-being of the victim. When a relocation payment or
32 reimbursement is provided to a victim of sexual assault or
33 domestic violence and the identity of the offender is known to the
34 victim, the victim shall agree not to inform the offender of the
35 location of the victim's new residence and not to allow the offender
36 on the premises at any time, or shall agree to seek a restraining
37 order against the offender. The cash payment or reimbursement
38 made under this subdivision shall only be awarded once to any
39 victim, except that the board may, under compelling

1 circumstances, award a second cash payment or reimbursement to
2 the same victim if both of the following conditions are met:

3 (A) The crime occurs more than three years from the date of the
4 crime giving rise to the initial relocation cash payment or
5 reimbursement.

6 (B) The crime does not involve the same offender.

7 (9) When a victim dies as a result of a crime, the board may
8 reimburse any individual who voluntarily, and without
9 anticipation of personal gain, pays or assumes the obligation to pay
10 any of the following expenses:

11 (A) The medical expenses incurred as a direct result of the
12 crime in an amount not to exceed the rates or limitations
13 established by the board.

14 (B) When the crime occurs in a residence, the reasonable costs
15 to clean the scene of the crime in an amount not to exceed one
16 thousand dollars (\$1,000). Services reimbursed pursuant to this
17 subdivision shall be performed by persons registered with the State
18 Department of Health Services as trauma scene waste practitioners
19 in accordance with Chapter 9.5 (commencing with Section
20 118321) of Part 14 of Division 104 of the Health and Safety Code.

21 (C) The funeral and burial expenses incurred as a direct result
22 of the crime, not to exceed seven thousand five hundred dollars
23 (\$7,500).

24 (b) The total award to or on behalf of each victim or derivative
25 victim may not exceed thirty-five thousand dollars (\$35,000),
26 except that this amount may be increased to seventy thousand
27 dollars (\$70,000) if federal funds for that increase are available.

28 (c) This section shall become operative on January 1, 2007.

29 ~~SEC. 3.~~

30 *SEC. 4. Section 13957.7 of the Government Code is amended*
31 *to read:*

32 13957.7. (a) No reimbursement may be made for any
33 expense that is submitted more than three years after it is incurred
34 by the victim or derivative victim. However, reimbursement may
35 be made for an expense submitted more than three years after the
36 date it is incurred if the victim or derivative victim has affirmed the
37 debt and is liable for the debt at the time the expense is submitted
38 for reimbursement, or has paid the expense as a direct result of a
39 crime for which a timely application has been filed.

(b) Compensation made pursuant to this chapter may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of compensation according to the applicant's need, subject to the maximum limits provided in this chapter.

(c) (1) The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.

(2) Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment.

(d) Payments for peer counseling services provided by a rape crisis center may not exceed fifteen dollars (\$15) for each hour of services provided. Those services shall be limited to in-person counseling for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(e) The board shall develop procedures to ensure that a victim is using compensation for job retraining or relocation only for its intended purposes. The procedures may include, but need not be limited to, requiring copies of receipts, agreements, or other documents as requested, or developing a method for direct payment.

(f) Compensation granted pursuant to this chapter shall not disqualify an otherwise eligible applicant from participation in any other public assistance program.

(g) (1) The board shall pay attorney's fees *to an attorney who represents an applicant who receives compensation greater than that recommended by staff after his or her application for compensation has been recommended for denial in whole or part by staff pursuant to Section 13959. Attorney's fees shall be paid in an amount representing the reasonable value of legal services rendered to the applicant, in an amount equal to.*

(2) *Under no circumstances shall attorney's fees paid pursuant to this section exceed 10 percent of the amount of the award compensation, or five hundred dollars (\$500), whichever is less,*

1 for each victim and each derivative victim *whose application for*
2 *compensation was originally recommended for denial in whole or*
3 *part.* ~~An~~

4 (3) An attorney receiving fees from another source ~~may~~ shall
5 waive ~~the~~ any right to receive ~~fees~~ attorney's fees from the board
6 under this subdivision. ~~Payments~~

7 (4) *Payments* under this subdivision shall be in addition to any
8 amount authorized or ordered under subdivision (b) of Section
9 13960. An attorney may not charge, demand, receive, or collect
10 any amount for services rendered in connection with any
11 proceedings under this chapter except as awarded under this
12 chapter.

13 (h) A private nonprofit agency shall be reimbursed for its
14 services at the level of the normal and customary fee charged by
15 the private nonprofit agency to clients with adequate means of
16 payment for its services, except that this reimbursement may not
17 exceed the maximum reimbursement rates set by the board and
18 may be made only to the extent that the victim otherwise qualifies
19 for compensation under this chapter and that other reimbursement
20 or direct subsidies are not available to serve the victim.

21 SEC. 5. Section 13964.5 is added to the Government Code, to
22 read:

23 13964.5. (a) In January of each year, the board shall
24 determine whether sufficient funds will be available in the
25 following fiscal year to pay all payments authorized pursuant to
26 this chapter. If the board determines that there will be insufficient
27 funds available to pay all authorized payments, the board shall
28 determine the percentage necessary to reduce awards and
29 payments so that the total amount of payments made pursuant to
30 this chapter does not exceed the amount of money available. The
31 board shall in the following fiscal year reduce all payments by the
32 percentage determined necessary.

33 (b) Payments made in a reduced amount pursuant to this section
34 shall be payment in full of the authorized reimbursement. A
35 provider who accepts a payment made pursuant to this section shall
36 accept that payment as payment-in-full and may not accept
37 additional amounts for that service from the recipient of the
38 service.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

~~SEC. 4.~~

SEC. 6. Section 1001.90 of the Penal Code is amended to read:

1001.90. (a) For all persons charged with a felony or misdemeanor whose case is diverted by the court pursuant to this title, the court shall impose on the defendant a diversion restitution fee in addition to any other administrative fee provided or imposed under the law. This fee shall not be imposed upon persons whose case is diverted by the court pursuant to Chapter 2.8 (commencing with Section 1001.20).

(b) The diversion restitution fee imposed pursuant to this section shall be set at the discretion of the court and shall be commensurate with the seriousness of the offense, but shall not be less than ~~one hundred fifty dollars (\$150)~~ *two hundred dollars (\$200)* nor more than *one thousand dollars (\$1,000)* for a misdemeanor ~~or, and not less than three hundred dollars (\$300)~~ nor more than *ten thousand dollars (\$10,000)* for a felony ~~up to a maximum of one thousand dollars (\$1,000) for either offense.~~

(c) The diversion restitution fee shall be ordered regardless of the defendant's present ability to pay. However, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the fee. When the waiver is granted, the court shall state on the record all reasons supporting the waiver. Except as provided in this subdivision, the court shall impose the separate and additional diversion restitution fee required by this section.

(d) In setting the amount of the diversion restitution fee in excess of the minimums specified in subdivision (b) of this section, the court shall consider any relevant factors, including, but not limited to, the defendant's ability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which any other person suffered any losses as a result of the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating the

1 lack of his or her ability to pay. Express findings by the court as
2 to the factors bearing on the amount of the fee shall not be required.
3 A separate hearing for the diversion restitution fee shall not be
4 required.

5 (e) The court shall not limit the ability of the state to enforce the
6 fee imposed by this section in the manner of a judgment in a civil
7 action. The court shall not modify the amount of this fee except to
8 correct an error in the setting of the amount of the fee imposed.

9 (f) The fee imposed pursuant to this section shall be
10 immediately deposited in the Restitution Fund for use pursuant to
11 Section 13964 of the Government Code.

12 (g) The board of supervisors of any county may impose a fee
13 at its discretion to cover the actual administrative costs of
14 collection of the restitution fee, not to exceed 10 percent of the
15 amount ordered to be paid. Any fee imposed pursuant to this
16 subdivision shall be deposited in the general fund of the county.

17 (h) The state shall pay the county agency responsible for
18 collecting the diversion restitution fee owed to the Restitution
19 Fund under this section, 10 percent of the funds so owed and
20 collected by the county agency and deposited in the Restitution
21 Fund. This payment shall be made only when the funds are
22 deposited in the Restitution Fund within 45 days of the end of the
23 month in which the funds are collected. Receiving 10 percent of
24 the moneys collected as being owed to the Restitution Fund shall
25 be considered an incentive for collection efforts and shall be used
26 for furthering these collection efforts. The 10 percent rebates shall
27 be used to augment the budgets for the county agencies responsible
28 for collection of funds owed to the Restitution Fund as provided
29 in this section. The 10 percent rebates shall not be used to supplant
30 county funding.

31 (i) As used in this section, “diversion” also means deferred
32 entry of judgment pursuant to Chapter 2.5 (commencing with
33 Section 1000).

34 (j) This section shall remain in effect only until January 1,
35 2007, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, 2007, deletes or extends that date.

37 ~~SEC. 5.~~

38 *SEC. 7.* Section 1001.90 is added to the Penal Code, to read:

39 1001.90. (a) For all persons charged with a felony or
40 misdemeanor whose case is diverted by the court pursuant to this

1 title, the court shall impose on the defendant a diversion restitution
2 fee in addition to any other administrative fee provided or imposed
3 under the law. This fee shall not be imposed upon persons whose
4 case is diverted by the court pursuant to Chapter 2.8 (commencing
5 with Section 1001.20).

6 (b) The diversion restitution fee imposed pursuant to this
7 section shall be set at the discretion of the court and shall be
8 commensurate with the seriousness of the offense, but shall not be
9 less than one hundred dollars (\$100), and not more than one
10 thousand dollars (\$1,000).

11 (c) The diversion restitution fee shall be ordered regardless of
12 the defendant's present ability to pay. However, if the court finds
13 that there are compelling and extraordinary reasons, the court may
14 waive imposition of the fee. When the waiver is granted, the court
15 shall state on the record all reasons supporting the waiver. Except
16 as provided in this subdivision, the court shall impose the separate
17 and additional diversion restitution fee required by this section.

18 (d) In setting the amount of the diversion restitution fee in
19 excess of the one hundred dollar (\$100) minimum, the court shall
20 consider any relevant factors, including, but not limited to, the
21 defendant's ability to pay, the seriousness and gravity of the
22 offense and the circumstances of its commission, any economic
23 gain derived by the defendant as a result of the crime, and the
24 extent to which any other person suffered any losses as a result of
25 the crime. Those losses may include pecuniary losses to the victim
26 or his or her dependents as well as intangible losses, such as
27 psychological harm caused by the crime. Consideration of a
28 defendant's ability to pay may include his or her future earning
29 capacity. A defendant shall bear the burden of demonstrating the
30 lack of his or her ability to pay. Express findings by the court as
31 to the factors bearing on the amount of the fee shall not be required.
32 A separate hearing for the diversion restitution fee shall not be
33 required.

34 (e) The court shall not limit the ability of the state to enforce the
35 fee imposed by this section in the manner of a judgment in a civil
36 action. The court shall not modify the amount of this fee except to
37 correct an error in the setting of the amount of the fee imposed.

38 (f) The fee imposed pursuant to this section shall be
39 immediately deposited in the Restitution Fund for use pursuant to
40 Section 13964 of the Government Code.

(g) The board of supervisors of any county may impose a fee at its discretion to cover the actual administrative costs of collection of the restitution fee, not to exceed 10 percent of the amount ordered to be paid. Any fee imposed pursuant to this subdivision shall be deposited in the general fund of the county.

(h) The state shall pay the county agency responsible for collecting the diversion restitution fee owed to the Restitution Fund under this section, 10 percent of the funds so owed and collected by the county agency and deposited in the Restitution Fund. This payment shall be made only when the funds are deposited in the Restitution Fund within 45 days of the end of the month in which the funds are collected. Receiving 10 percent of the moneys collected as being owed to the Restitution Fund shall be considered an incentive for collection efforts and shall be used for furthering these collection efforts. The 10 percent rebates shall be used to augment the budgets for the county agencies responsible for collection of funds owed to the Restitution Fund as provided in this section. The 10 percent rebates shall not be used to supplant county funding.

(i) As used in this section, “diversion” also means deferred entry of judgment pursuant to Chapter 2.5 (commencing with Section 1000).

(j) This section shall become operative on January 1, 2007.

~~SEC. 6.~~

SEC. 8. Section 1202.4 of the Penal Code is amended to read:

1202.4. (a) (1) It is the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.

(2) Upon a person being convicted of any crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment.

(b) In every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record.

(1) The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense, but shall not be less than three hundred dollars (\$300), and not more than ten thousand dollars (\$10,000), if the person is convicted of a felony, and shall not be less than ~~one hundred fifty dollars (\$150)~~ *two hundred dollars (\$200)*, and not more than one thousand dollars (\$1,000), if the person is convicted of a misdemeanor.

(2) In setting a felony restitution fine, the court may determine the amount of the fine as the product of three hundred dollars (\$300) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.

(c) The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in increasing the amount of the restitution fine in excess of the three hundred dollar (\$300) or ~~one hundred fifty dollar (\$150)~~ *two hundred dollar (\$200)* minimum.

(d) In setting the amount of the fine pursuant to subdivision (b) in excess of the three hundred dollar (\$300) or ~~one hundred fifty dollar (\$150)~~ *two hundred dollar (\$200)* minimum, the court shall consider any relevant factors including, but not limited to, the defendant's inability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, the extent to which any other person suffered any losses as a result of the crime, and the number of victims involved in the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's inability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating his or her inability to pay. Express findings by the court as to the factors bearing on the

1 amount of the fine shall not be required. A separate hearing for the
2 fine shall not be required.

3 (e) The restitution fine shall not be subject to penalty
4 assessments as provided in Section 1464, and shall be deposited in
5 the Restitution Fund in the State Treasury.

6 (f) In every case in which a victim has suffered economic loss
7 as a result of the defendant's conduct, the court shall require that
8 the defendant make restitution to the victim or victims in an
9 amount established by court order, based on the amount of loss
10 claimed by the victim or victims or any other showing to the court.
11 If the amount of loss cannot be ascertained at the time of
12 sentencing, the restitution order shall include a provision that the
13 amount shall be determined at the direction of the court. The court
14 shall order full restitution unless it finds compelling and
15 extraordinary reasons for not doing so, and states them on the
16 record.

17 (1) The defendant has the right to a hearing before a judge to
18 dispute the determination of the amount of restitution. The court
19 may modify the amount, on its own motion or on the motion of the
20 district attorney, the victim or victims, or the defendant. If a
21 motion is made for modification of a restitution order, the victim
22 shall be notified of that motion at least 10 days prior to the
23 proceeding held to decide the motion.

24 (2) Determination of the amount of restitution ordered
25 pursuant to this subdivision shall not be affected by the
26 indemnification or subrogation rights of any third party.
27 Restitution ordered pursuant to this subdivision shall be ordered
28 to be deposited to the Restitution Fund to the extent that the victim,
29 as defined in subdivision (k), has received assistance from the
30 ~~Victims of Crime~~ *Victim Compensation* Program pursuant to
31 ~~Article 4 Chapter 5~~ (commencing with Section 13959) of Chapter
32 ~~5 13950~~ of Part 4 of Division 3 of Title 2 of the Government Code.

33 (3) To the extent possible, the restitution order shall be
34 prepared by the sentencing court, shall identify each victim and
35 each loss to which it pertains, and shall be of a dollar amount that
36 is sufficient to fully reimburse the victim or victims for every
37 determined economic loss incurred as the result of the defendant's
38 criminal conduct, including, but not limited to, all of the
39 following:

1 (A) Full or partial payment for the value of stolen or damaged
2 property. The value of stolen or damaged property shall be the
3 replacement cost of like property, or the actual cost of repairing the
4 property when repair is possible.

5 (B) Medical expenses.

6 (C) Mental health counseling expenses.

7 (D) Wages or profits lost due to injury incurred by the victim,
8 and if the victim is a minor, wages or profits lost by the minor's
9 parent, parents, guardian, or guardians, while caring for the
10 injured minor. Lost wages shall include any commission income
11 as well as any base wages. Commission income shall be
12 established by evidence of commission income during the
13 12-month period prior to the date of the crime for which restitution
14 is being ordered, unless good cause for a shorter time period is
15 shown.

16 (E) Wages or profits lost by the victim, and if the victim is a
17 minor, wages or profits lost by the minor's parent, parents,
18 guardian, or guardians, due to time spent as a witness or in assisting
19 the police or prosecution. Lost wages shall include any
20 commission income as well as any base wages. Commission
21 income shall be established by evidence of commission income
22 during the 12-month period prior to the date of the crime for which
23 restitution is being ordered, unless good cause for a shorter time
24 period is shown.

25 (F) Noneconomic losses, including, but not limited to,
26 psychological harm, for felony violations of Section 288.

27 (G) Interest, at the rate of 10 percent per annum, that accrues
28 as of the date of sentencing or loss, as determined by the court.

29 (H) Actual and reasonable attorney's fees and other costs of
30 collection accrued by a private entity on behalf of the victim.

31 (I) Expenses incurred by an adult victim in relocating away
32 from the defendant, including, but not limited to, deposits for
33 utilities and telephone service, deposits for rental housing,
34 temporary lodging and food expenses, clothing, and personal
35 items. Expenses incurred pursuant to this section shall be verified
36 by law enforcement to be necessary for the personal safety of the
37 victim or by a mental health treatment provider to be necessary for
38 the emotional well-being of the victim.

39 (J) Expenses to install or increase residential security incurred
40 related to a crime, as defined in subdivision (c) of Section 667.5,

1 including, but not limited to, a home security device or system, or
2 replacing or increasing the number of locks.

3 (K) Expenses to retrofit a residence or vehicle, or both, to make
4 the residence accessible to or the vehicle operational by the victim,
5 if the victim is permanently disabled, whether the disability is
6 partial or total, as a direct result of the crime.

7 (4) (A) If, as a result of the defendant's conduct, the
8 Restitution Fund has provided assistance to or on behalf of a victim
9 or derivative victim pursuant to ~~Article 4 Chapter 5~~ (commencing
10 with Section ~~13959~~ of Chapter 5 13950) of Part 4 of Division 3
11 of Title 2 of the Government Code, the amount of assistance
12 provided shall be presumed to be a direct result of the defendant's
13 criminal conduct and shall be included in the amount of the
14 restitution ordered.

15 (B) The amount of assistance provided by the Restitution Fund
16 shall be established by copies of bills submitted to the California
17 Victim Compensation and Government Claims Board reflecting
18 the amount paid by the board and whether the services for which
19 payment was made were for medical or dental expenses, funeral
20 or burial expenses, mental health counseling, wage or support
21 losses, or rehabilitation. Certified copies of these bills provided by
22 the ~~State Board of Control~~ board and redacted to protect the
23 privacy and safety of the victim or any legal privilege, together
24 with a statement made under penalty of perjury by the custodian
25 of records that those bills were submitted to and were paid by the
26 California ~~Victim Compensation and Government Claims Board~~
27 board, shall be sufficient to meet this requirement.

28 (C) If the defendant offers evidence to rebut the presumption
29 established by this paragraph, the court may release additional
30 information contained in the records of the ~~California Victim~~
31 ~~Compensation and Government Claims Board~~ board to the
32 defendant only after reviewing that information in camera and
33 finding that the information is necessary for the defendant to
34 dispute the amount of the restitution order.

35 (5) Except as provided in paragraph (6), in any case in which
36 an order may be entered pursuant to this subdivision, the defendant
37 shall prepare and file a disclosure identifying all assets, income,
38 and liabilities in which the defendant held or controlled a present
39 or future interest as of the date of the defendant's arrest for the
40 crime for which restitution may be ordered. This disclosure shall

be available to the victim pursuant to Section 1214, and any use the court may make of the disclosure shall be subject to the restrictions of subdivision (g). The disclosure shall be signed by the defendant upon a form approved or adopted by the Judicial Council for the purpose of facilitating the disclosure. Any defendant who willfully states as true any material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty.

(6) A defendant who fails to file the financial disclosure required in paragraph (5), but who has filed a financial affidavit or financial information pursuant to subdivision (c) of Section 987, shall be deemed to have waived the confidentiality of that affidavit or financial information as to a victim in whose favor the order of restitution is entered pursuant to subdivision (f). The affidavit or information shall serve in lieu of the financial disclosure required in paragraph (5), and paragraphs (7) to (10), inclusive, shall not apply.

(7) Except as provided in paragraph (6), the defendant shall file the disclosure with the clerk of the court no later than the date set for the defendant's sentencing, unless otherwise directed by the court. The disclosure may be inspected or copied as provided by subdivision (b), (c), or (d) of Section 1203.05.

(8) In its discretion, the court may relieve the defendant of the duty under paragraph (7) of filing with the clerk by requiring that the defendant's disclosure be submitted as an attachment to, and be available to, those authorized to receive the following:

(A) Any report submitted pursuant to subparagraph (C) of paragraph (2) of subdivision (b) of Section 1203 or subdivision (g) of Section 1203.

(B) Any stipulation submitted pursuant to paragraph (4) of subdivision (b) of Section 1203.

(C) Any report by the probation officer, or any information submitted by the defendant applying for a conditional sentence pursuant to subdivision (d) of Section 1203.

(9) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (5) as any of the following:

(A) A circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

1 (B) A factor indicating that the interests of justice would not be
2 served by admitting the defendant to probation under Section
3 1203.

4 (C) A factor indicating that the interests of justice would not be
5 served by conditionally sentencing the defendant under Section
6 1203.

7 (D) A factor indicating that the interests of justice would not be
8 served by imposing less than the maximum fine and sentence fixed
9 by law for the case.

10 (10) A defendant's failure or refusal to make the required
11 disclosure pursuant to paragraph (5) shall not delay entry of an
12 order of restitution or pronouncement of sentence. In appropriate
13 cases, the court may do any of the following:

14 (A) Require the defendant to be examined by the district
15 attorney pursuant to subdivision (h).

16 (B) If sentencing the defendant under Section 1170, provide
17 that the victim shall receive a copy of the portion of the probation
18 report filed pursuant to Section 1203.10 concerning the
19 defendant's employment, occupation, finances, and liabilities.

20 (C) If sentencing the defendant under Section 1203, set a date
21 and place for submission of the disclosure required by paragraph
22 (5) as a condition of probation or suspended sentence.

23 (g) The court shall order full restitution unless it finds
24 compelling and extraordinary reasons for not doing so, and states
25 those reasons on the record. A defendant's inability to pay shall not
26 be considered a compelling and extraordinary reason not to impose
27 a restitution order, nor shall inability to pay be a consideration in
28 determining the amount of a restitution order.

29 (h) The district attorney may request an order of examination
30 pursuant to the procedures specified in Article 2 (commencing
31 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
32 2 of the Code of Civil Procedure, in order to determine the
33 defendant's financial assets for purposes of collecting on the
34 restitution order.

35 (i) A restitution order imposed pursuant to subdivision (f) shall
36 be enforceable as if the order were a civil judgment.

37 (j) The making of a restitution order pursuant to subdivision (f)
38 shall not affect the right of a victim to recovery from the
39 Restitution Fund as otherwise provided by law, except to the extent
40 that restitution is actually collected pursuant to the order.

1 Restitution collected pursuant to this subdivision shall be credited
2 to any other judgments for the same losses obtained against the
3 defendant arising out of the crime for which the defendant was
4 convicted.

5 (k) For purposes of this section, “victim” shall include all of
6 the following:

7 (1) The immediate surviving family of the actual victim.

8 (2) Any corporation, business trust, estate, trust, partnership,
9 association, joint venture, government, governmental
10 subdivision, agency, or instrumentality, or any other legal or
11 commercial entity when that entity is a direct victim of a crime.

12 (3) “Derivative victims” as defined in Section ~~13960~~ 13951 of
13 the Government Code.

14 (l) At its discretion, the board of supervisors of any county may
15 impose a fee to cover the actual administrative cost of collecting
16 the restitution fine, not to exceed 10 percent of the amount ordered
17 to be paid, to be added to the restitution fine and included in the
18 order of the court, the proceeds of which shall be deposited in the
19 general fund of the county.

20 (m) In every case in which the defendant is granted probation,
21 the court shall make the payment of restitution fines and orders
22 imposed pursuant to this section a condition of probation. Any
23 portion of a restitution order that remains unsatisfied after a
24 defendant is no longer on probation shall continue to be
25 enforceable by a victim pursuant to Section 1214 until the
26 obligation is satisfied.

27 (n) If the court finds and states on the record compelling and
28 extraordinary reasons why a restitution fine or full restitution order
29 should not be required, the court shall order, as a condition of
30 probation, that the defendant perform specified community
31 service, unless it finds and states on the record compelling and
32 extraordinary reasons not to require community service in addition
33 to the finding that restitution should not be required. Upon
34 revocation of probation, the court shall impose restitution pursuant
35 to this section.

36 (o) The provisions of Section ~~13966.01~~ 13963 of the
37 Government Code shall apply to restitution imposed pursuant to
38 this section.

(p) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

~~SEC. 7.~~

SEC. 9. Section 1202.4 is added to the Penal Code, to read:

1202.4. (a) (1) It is the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.

(2) Upon a person being convicted of any crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment.

(b) In every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record.

(1) The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense, but shall not be less than two hundred dollars (\$200), and not more than ten thousand dollars (\$10,000), if the person is convicted of a felony, and shall not be less than one hundred dollars (\$100), and not more than one thousand dollars (\$1,000), if the person is convicted of a misdemeanor.

(2) In setting a felony restitution fine, the court may determine the amount of the fine as the product of two hundred dollars (\$200) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.

(c) The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in

1 increasing the amount of the restitution fine in excess of the two
2 hundred dollar (\$200) or one hundred dollar (\$100) minimum.

3 (d) In setting the amount of the fine pursuant to subdivision (b)
4 in excess of the two hundred dollar (\$200) or one hundred dollar
5 (\$100) minimum, the court shall consider any relevant factors
6 including, but not limited to, the defendant's inability to pay, the
7 seriousness and gravity of the offense and the circumstances of its
8 commission, any economic gain derived by the defendant as a
9 result of the crime, the extent to which any other person suffered
10 any losses as a result of the crime, and the number of victims
11 involved in the crime. Those losses may include pecuniary losses
12 to the victim or his or her dependents as well as intangible losses,
13 such as psychological harm caused by the crime. Consideration of
14 a defendant's inability to pay may include his or her future earning
15 capacity. A defendant shall bear the burden of demonstrating his
16 or her inability to pay. Express findings by the court as to the
17 factors bearing on the amount of the fine shall not be required. A
18 separate hearing for the fine shall not be required.

19 (e) The restitution fine shall not be subject to penalty
20 assessments as provided in Section 1464, and shall be deposited in
21 the Restitution Fund in the State Treasury.

22 (f) In every case in which a victim has suffered economic loss
23 as a result of the defendant's conduct, the court shall require that
24 the defendant make restitution to the victim or victims in an
25 amount established by court order, based on the amount of loss
26 claimed by the victim or victims or any other showing to the court.
27 If the amount of loss cannot be ascertained at the time of
28 sentencing, the restitution order shall include a provision that the
29 amount shall be determined at the direction of the court. The court
30 shall order full restitution unless it finds compelling and
31 extraordinary reasons for not doing so, and states them on the
32 record.

33 (1) The defendant has the right to a hearing before a judge to
34 dispute the determination of the amount of restitution. The court
35 may modify the amount, on its own motion or on the motion of the
36 district attorney, the victim or victims, or the defendant. If a
37 motion is made for modification of a restitution order, the victim
38 shall be notified of that motion at least 10 days prior to the
39 proceeding held to decide the motion.

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of any third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited to the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the ~~Victims of Crime~~ *Victim Compensation* Program pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

1 (F) Noneconomic losses, including, but not limited to,
2 psychological harm, for felony violations of Section 288.

3 (G) Interest, at the rate of 10 percent per annum, that accrues
4 as of the date of sentencing or loss, as determined by the court.

5 (H) Actual and reasonable attorney's fees and other costs of
6 collection accrued by a private entity on behalf of the victim.

7 (I) Expenses incurred by an adult victim in relocating away
8 from the defendant, including, but not limited to, deposits for
9 utilities and telephone service, deposits for rental housing,
10 temporary lodging and food expenses, clothing, and personal
11 items. Expenses incurred pursuant to this section shall be verified
12 by law enforcement to be necessary for the personal safety of the
13 victim or by a mental health treatment provider to be necessary for
14 the emotional well-being of the victim.

15 (J) Expenses to install or increase residential security incurred
16 related to a crime, as defined in subdivision (c) of Section 667.5,
17 including, but not limited to, a home security device or system, or
18 replacing or increasing the number of locks.

19 (K) Expenses to retrofit a residence or vehicle, or both, to make
20 the residence accessible to or the vehicle operational by the victim,
21 if the victim is permanently disabled, whether the disability is
22 partial or total, as a direct result of the crime.

23 (4) (A) If, as a result of the defendant's conduct, the
24 Restitution Fund has provided assistance to or on behalf of a victim
25 or derivative victim pursuant to Chapter 5 (commencing with
26 Section 13950) of Part 4 of Division 3 of Title 2 of the Government
27 Code, the amount of assistance provided shall be presumed to be
28 a direct result of the defendant's criminal conduct and shall be
29 included in the amount of the restitution ordered.

30 (B) The amount of assistance provided by the Restitution Fund
31 shall be established by copies of bills submitted to the California
32 Victim Compensation and Government Claims Board reflecting
33 the amount paid by the board and whether the services for which
34 payment was made were for medical or dental expenses, funeral
35 or burial expenses, mental health counseling, wage or support
36 losses, or rehabilitation. Certified copies of these bills provided by
37 the ~~California Victim Compensation and Government Claims~~
38 ~~Board~~ board and redacted to protect the privacy and safety of the
39 victim or any legal privilege, together with a statement made under
40 penalty of perjury by the custodian of records that those bills were

1 submitted to and were paid by the ~~California Victim~~
2 ~~Compensation and Government Claims Board~~ *board*, shall be
3 sufficient to meet this requirement.

4 (C) If the defendant offers evidence to rebut the presumption
5 established by this paragraph, the court may release additional
6 information contained in the records of the ~~California Victim~~
7 ~~Compensation and Government Claims Board~~ *board* to the
8 defendant only after reviewing that information in camera and
9 finding that the information is necessary for the defendant to
10 dispute the amount of the restitution order.

11 (5) Except as provided in paragraph (6), in any case in which
12 an order may be entered pursuant to this subdivision, the defendant
13 shall prepare and file a disclosure identifying all assets, income,
14 and liabilities in which the defendant held or controlled a present
15 or future interest as of the date of the defendant's arrest for the
16 crime for which restitution may be ordered. This disclosure shall
17 be available to the victim pursuant to Section 1214, and any use the
18 court may make of the disclosure shall be subject to the restrictions
19 of subdivision (g). The disclosure shall be signed by the defendant
20 upon a form approved or adopted by the Judicial Council for the
21 purpose of facilitating the disclosure. Any defendant who willfully
22 states as true any material matter that he or she knows to be false
23 on the disclosure required by this subdivision is guilty of a
24 misdemeanor, unless this conduct is punishable as perjury or
25 another provision of law provides for a greater penalty.

26 (6) A defendant who fails to file the financial disclosure
27 required in paragraph (5), but who has filed a financial affidavit or
28 financial information pursuant to subdivision (c) of Section 987,
29 shall be deemed to have waived the confidentiality of that affidavit
30 or financial information as to a victim in whose favor the order of
31 restitution is entered pursuant to subdivision (f). The affidavit or
32 information shall serve in lieu of the financial disclosure required
33 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
34 apply.

35 (7) Except as provided in paragraph (6), the defendant shall file
36 the disclosure with the clerk of the court no later than the date set
37 for the defendant's sentencing, unless otherwise directed by the
38 court. The disclosure may be inspected or copied as provided by
39 subdivision (b), (c), or (d) of Section 1203.05.

1 (8) In its discretion, the court may relieve the defendant of the
2 duty under paragraph (7) of filing with the clerk by requiring that
3 the defendant's disclosure be submitted as an attachment to, and
4 be available to, those authorized to receive the following:

5 (A) Any report submitted pursuant to subparagraph (C) of
6 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)
7 of Section 1203.

8 (B) Any stipulation submitted pursuant to paragraph (4) of
9 subdivision (b) of Section 1203.

10 (C) Any report by the probation officer, or any information
11 submitted by the defendant applying for a conditional sentence
12 pursuant to subdivision (d) of Section 1203.

13 (9) The court may consider a defendant's unreasonable failure
14 to make a complete disclosure pursuant to paragraph (5) as any of
15 the following:

16 (A) A circumstance in aggravation of the crime in imposing a
17 term under subdivision (b) of Section 1170.

18 (B) A factor indicating that the interests of justice would not be
19 served by admitting the defendant to probation under Section
20 1203.

21 (C) A factor indicating that the interests of justice would not be
22 served by conditionally sentencing the defendant under Section
23 1203.

24 (D) A factor indicating that the interests of justice would not be
25 served by imposing less than the maximum fine and sentence fixed
26 by law for the case.

27 (10) A defendant's failure or refusal to make the required
28 disclosure pursuant to paragraph (5) shall not delay entry of an
29 order of restitution or pronouncement of sentence. In appropriate
30 cases, the court may do any of the following:

31 (A) Require the defendant to be examined by the district
32 attorney pursuant to subdivision (h).

33 (B) If sentencing the defendant under Section 1170, provide
34 that the victim shall receive a copy of the portion of the probation
35 report filed pursuant to Section 1203.10 concerning the
36 defendant's employment, occupation, finances, and liabilities.

37 (C) If sentencing the defendant under Section 1203, set a date
38 and place for submission of the disclosure required by paragraph
39 (5) as a condition of probation or suspended sentence.

(g) The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of a restitution order.

(h) The district attorney may request an order of examination pursuant to the procedures specified in Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, in order to determine the defendant's financial assets for purposes of collecting on the restitution order.

(i) A restitution order imposed pursuant to subdivision (f) shall be enforceable as if the order were a civil judgment.

(j) The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.

(k) For purposes of this section, "victim" shall include all of the following:

(1) The immediate surviving family of the actual victim.

(2) Any corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.

(3) "Derivative victims" as defined in Section 13951 of the Government Code.

(l) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any

1 portion of a restitution order that remains unsatisfied after a
2 defendant is no longer on probation shall continue to be
3 enforceable by a victim pursuant to Section 1214 until the
4 obligation is satisfied.

5 (n) If the court finds and states on the record compelling and
6 extraordinary reasons why a restitution fine or full restitution order
7 should not be required, the court shall order, as a condition of
8 probation, that the defendant perform specified community
9 service, unless it finds and states on the record compelling and
10 extraordinary reasons not to require community service in addition
11 to the finding that restitution should not be required. Upon
12 revocation of probation, the court shall impose restitution pursuant
13 to this section.

14 (o) The provisions of Section 13963 of the Government Code
15 shall apply to restitution imposed pursuant to this section.

16 (p) This section shall become operative on January 1, 2007.

17 ~~SEC. 8.~~

18 *SEC. 10.* Section 2085.5 of the Penal Code is amended to
19 read:

20 2085.5. (a) In any case in which a prisoner owes a restitution
21 fine imposed pursuant to subdivision (a) of Section 13967 of the
22 Government Code, as operative prior to September 28, 1994, or
23 subdivision (b) of Section 1202.4, the Director of Corrections shall
24 deduct a minimum of 20 percent or the balance owing on the fine
25 amount, whichever is less, up to a maximum of 30 percent from
26 the wages and trust account deposits of a prisoner, unless
27 prohibited by federal law, and shall transfer that amount to the
28 California Victim Compensation and Government Claims Board
29 for deposit in the Restitution Fund in the State Treasury. Any
30 amount so deducted shall be credited against the amount owing on
31 the fine. The sentencing court shall be provided a record of the
32 payments.

33 (b) In any case in which a prisoner owes a restitution order
34 imposed pursuant to subdivision (c) of Section 13967 of the
35 Government Code, as operative prior to September 28, 1994, or
36 subdivision (f) of Section 1202.4, the Director of Corrections shall
37 deduct a minimum of 20 percent or the balance owing on the order
38 amount, whichever is less, up to a maximum of 30 percent from
39 the wages and trust account deposits of a prisoner, unless
40 prohibited by federal law. If the restitution is owed to a person who

1 has filed an application with the ~~Victims of Crime~~ *Victim*
2 *Compensation* Program, the director shall transfer that amount to
3 the California Victim Compensation and Government Claims
4 Board for direct payment to the victim, or payment shall be made
5 to the Restitution Fund to the extent that the victim has received
6 assistance pursuant to that program. No deductions shall be made
7 on behalf of victims who have not filed an application with the
8 ~~Victims of Crime~~ *Victim Compensation* Program. The sentencing
9 court shall be provided a record of the payments made to victims
10 and of the payments deposited to the Restitution Fund pursuant to
11 this subdivision.

12 (c) The director shall deduct and retain from the wages and trust
13 account deposits of a prisoner, unless prohibited by federal law, an
14 administrative fee that totals ~~5~~ *up to 10* percent of any amount
15 transferred to the California Victim Compensation and
16 Government Claims Board pursuant to subdivision (a) or (b). The
17 director shall deduct and retain from any prisoner settlement or
18 trial award, an administrative fee that totals 5 percent of any
19 amount paid from the settlement or award to satisfy an outstanding
20 restitution order or fine pursuant to subdivision (j), unless
21 prohibited by federal law. The director shall deposit the
22 administrative fee moneys in a special deposit account for
23 reimbursing administrative and support costs of the restitution
24 program of the Department of Corrections. ~~The director, at his or~~
25 ~~her discretion, may retain any excess funds in the special deposit~~
26 ~~account for future reimbursement of the department's~~
27 ~~administrative and support costs for the restitution program or may~~
28 ~~transfer all or part of the excess funds for deposit in the Restitution~~
29 ~~Fund.~~

30 (d) In any case in which a parolee owes a restitution fine
31 imposed pursuant to subdivision (a) of Section 13967 of the
32 Government Code, as operative prior to September 28, 1994, or
33 subdivision (b) of Section 1202.4, the Director of Corrections may
34 collect from the parolee any moneys owing on the restitution fine
35 amount, unless prohibited by federal law, and shall transfer that
36 amount to the California Victim Compensation and Government
37 Claims Board for deposit in the Restitution Fund in the State
38 Treasury. Any amount so deducted shall be credited against the
39 amount owing on the fine. The sentencing court shall be provided
40 a record of the payments.

(e) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or paragraph (3) of subdivision (a) of Section 1202.4, the Director of Corrections may collect from the parolee any moneys owing, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the ~~Victims of Crime~~ *Victim Compensation* Program, the director shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. No deductions shall be made on behalf of victims who have not filed an application with the ~~Victims of Crime~~ *Victim Compensation* Program. The sentencing court shall be provided a record of the payments made by the offender pursuant to this subdivision.

(f) The director may deduct and retain from any moneys collected from parolees an administrative fee that totals ~~5 up to 10~~ percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (d) or (e), unless prohibited by federal law. The director shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (j), unless prohibited by federal law. The director shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections. ~~The director, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the department's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.~~

(g) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections shall collect the restitution order first pursuant to subdivision (b).

(h) When a parolee has both a restitution fine and order from the sentencing court, the Department of Corrections may collect the restitution order first, pursuant to subdivision (e).

1 (i) If an inmate is housed at an institution that requires food to
2 be purchased from the institution canteen for unsupervised
3 overnight visits, and if the money for the purchase of this food is
4 received from funds other than the inmate's wages, that money
5 shall be exempt from restitution deductions. This exemption shall
6 apply to the actual amount spent on food for the visit up to a
7 maximum of fifty dollars (\$50) for visits that include the inmate
8 and one visitor, seventy dollars (\$70) for visits that include the
9 inmate and two or three visitors, and eighty dollars (\$80) for visits
10 that include the inmate and four or more visitors.

11 (j) Any compensatory or punitive damages awarded by trial or
12 settlement to any inmate or parolee in connection with a civil
13 action brought against any federal, state, or local jail, prison, or
14 correctional facility, or any official or agent thereof, shall be paid
15 directly, after payment of reasonable attorney's fees and litigation
16 costs approved by the court, to satisfy any outstanding restitution
17 orders or restitution fines against that person. The balance of any
18 award shall be forwarded to the payee after full payment of all
19 outstanding restitution orders and restitution fines, subject to
20 subdivisions (c) and (f). The Department of Corrections shall
21 make all reasonable efforts to notify the victims of the crime for
22 which that person was convicted concerning the pending payment
23 of any compensatory or punitive damages.

24 (k) (1) Amounts transferred to the California Victim
25 Compensation and Government Claims Board for payment of
26 direct orders of restitution shall be paid to the victim within 60
27 days from the date the restitution revenues are received by the
28 California Victim Compensation and Government Claims Board.
29 If the restitution payment to a victim is less than fifty dollars (\$50),
30 then payment need not be forwarded to that victim until the
31 payment reaches fifty dollars (\$50) or until 180 days from the date
32 the first payment is received, whichever occurs sooner.

33 (2) In any case in which a victim cannot be located, the
34 restitution revenues received by the California Victim
35 Compensation and Government Claims Board on behalf of the
36 victim shall be held in trust in the Restitution Fund until the end
37 of the state fiscal year subsequent to the state fiscal year in which
38 the funds were deposited or until the time that the victim has
39 provided current address information, whichever occurs sooner.



Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) Any victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections, which in turn shall verify that moneys were in fact collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (b).

~~SEC. 9.~~

(1) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 2085.5 is added to the Penal Code, to read:

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 30 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (f) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 30 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the Victim Compensation Program, the director shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment

1 to the victim, or payment shall be made to the Restitution Fund to
2 the extent that the victim has received assistance pursuant to that
3 program. No deductions shall be made on behalf of victims who
4 have not filed an application with the Victim Compensation
5 Program. The sentencing court shall be provided a record of the
6 payments made to victims and of the payments deposited to the
7 Restitution Fund pursuant to this subdivision.

8 (c) The director shall deduct and retain from the wages and
9 trust account deposits of a prisoner, unless prohibited by federal
10 law, an administrative fee that totals 5 percent of any amount
11 transferred to the California Victim Compensation and
12 Government Claims Board pursuant to subdivision (a) or (b). The
13 director shall deduct and retain from any prisoner settlement or
14 trial award, an administrative fee that totals 5 percent of any
15 amount paid from the settlement or award to satisfy an outstanding
16 restitution order or fine pursuant to subdivision (j), unless
17 prohibited by federal law. The director shall deposit the
18 administrative fee moneys in a special deposit account for
19 reimbursing administrative and support costs of the restitution
20 program of the Department of Corrections.

21 (d) In any case in which a parolee owes a restitution fine
22 imposed pursuant to subdivision (a) of Section 13967 of the
23 Government Code, as operative prior to September 28, 1994, or
24 subdivision (b) of Section 1202.4, the Director of Corrections may
25 collect from the parolee any moneys owing on the restitution fine
26 amount, unless prohibited by federal law, and shall transfer that
27 amount to the California Victim Compensation and Government
28 Claims Board for deposit in the Restitution Fund in the State
29 Treasury. Any amount so deducted shall be credited against the
30 amount owing on the fine. The sentencing court shall be provided
31 a record of the payments.

32 (e) In any case in which a parolee owes a direct order of
33 restitution, imposed pursuant to subdivision (c) of Section 13967
34 of the Government Code, as operative prior to September 28,
35 1994, or paragraph (3) of subdivision (a) of Section 1202.4, the
36 Director of Corrections may collect from the parolee any moneys
37 owing, unless prohibited by federal law. If the restitution is owed
38 to a person who has filed an application with the Victim
39 Compensation Program, the director shall transfer that amount to
40 the California Victim Compensation and Government Claims

1 Board for direct payment to the victim, or payment shall be made
2 to the Restitution Fund to the extent that the victim has received
3 assistance pursuant to that program. No deductions shall be made
4 on behalf of victims who have not filed an application with the
5 Victim Compensation Program. The sentencing court shall be
6 provided a record of the payments made by the offender pursuant
7 to this subdivision.

8 (f) The director may deduct and retain from any moneys
9 collected from parolees an administrative fee that totals 10 percent
10 of any amount transferred to the California Victim Compensation
11 and Government Claims Board pursuant to subdivision (d) or (e),
12 unless prohibited by federal law. The director shall deduct and
13 retain from any settlement or trial award of a parolee an
14 administrative fee that totals 5 percent of any amount paid from the
15 settlement or award to satisfy an outstanding restitution order or
16 fine pursuant to subdivision (j), unless prohibited by federal law.
17 The director shall deposit the administrative fee moneys in a
18 special deposit account for reimbursing administrative and
19 support costs of the restitution program of the Department of
20 Corrections.

21 (g) When a prisoner has both a restitution fine and a restitution
22 order from the sentencing court, the Department of Corrections
23 shall collect the restitution order first, pursuant to subdivision (b).

24 (h) When a parolee has both a restitution fine and order from
25 the sentencing court, the Department of Corrections may collect
26 the restitution order first, pursuant to subdivision (e).

27 (i) If an inmate is housed at an institution that requires food to
28 be purchased from the institution canteen for unsupervised
29 overnight visits, and if the money for the purchase of this food is
30 received from funds other than the inmate's wages, that money
31 shall be exempt from restitution deductions. This exemption shall
32 apply to the actual amount spent on food for the visit up to a
33 maximum of fifty dollars (\$50) for visits that include the inmate
34 and one visitor; seventy dollars (\$70) for visits that include the
35 inmate and two or three visitors, and eighty dollars (\$80) for visits
36 that include the inmate and four or more visitors.

37 (j) Any compensatory or punitive damages awarded by trial or
38 settlement to any inmate or parolee in connection with a civil
39 action brought against any federal, state, or local jail, prison, or
40 correctional facility, or any official or agent thereof, shall be paid

1 *directly, after payment of reasonable attorney's fees and litigation*
2 *costs approved by the court, to satisfy any outstanding restitution*
3 *orders or restitution fines against that person. The balance of any*
4 *award shall be forwarded to the payee after full payment of all*
5 *outstanding restitution orders and restitution fines, subject to*
6 *subdivisions (c) and (f). The Department of Corrections shall make*
7 *all reasonable efforts to notify the victims of the crime for which*
8 *that person was convicted concerning the pending payment of any*
9 *compensatory or punitive damages.*

10 *(k) (1) Amounts transferred to the California Victim*
11 *Compensation and Government Claims Board for payment of*
12 *direct orders of restitution shall be paid to the victim within 60 days*
13 *from the date the restitution revenues are received by the*
14 *California Victim Compensation and Government Claims Board.*
15 *If the restitution payment to a victim is less than fifty dollars (\$50),*
16 *then payment need not be forwarded to that victim until the*
17 *payment reaches fifty dollars (\$50) or until 180 days from the date*
18 *the first payment is received, whichever occurs sooner.*

19 *(2) In any case in which a victim cannot be located, the*
20 *restitution revenues received by the California Victim*
21 *Compensation and Government Claims Board on behalf of the*
22 *victim shall be held in trust in the Restitution Fund until the end*
23 *of the state fiscal year subsequent to the state fiscal year in which*
24 *the funds were deposited or until the time that the victim has*
25 *provided current address information, whichever occurs sooner.*
26 *Amounts remaining in trust at the end of the specified period of*
27 *time shall revert to the Restitution Fund.*

28 *(3) Any victim failing to provide a current address within the*
29 *period of time specified in paragraph (2) may provide*
30 *documentation to the Department of Corrections, which in turn*
31 *shall verify that moneys were in fact collected on behalf of the*
32 *victim. Upon receipt of that verified information from the*
33 *Department of Corrections, the California Victim Compensation*
34 *and Government Claims Board shall transmit the restitution*
35 *revenues to the victim in accordance with the provisions of*
36 *subdivision (b).*

37 *(l) This section shall become operative on July 1, 2008.*

38 *SEC. 12. Commencing with the 2004–05 budget, the*
39 *Department of Corrections shall include in the Governor's budget*
40 *a display of revenue and expenditures for the administrative fee*

1 collected pursuant to subdivisions (c) and (f) of Section 2085.5 of
2 the Penal Code. Commencing with the 2004–05 fiscal year, these
3 administrative fees shall be expended only upon appropriation by
4 the Legislature.

5 SEC. 13. (a) The Administrative Office of the Courts shall
6 establish a workgroup to review the current policies and processes
7 by which criminal fines and penalties are imposed by the courts,
8 including a review of how restitution fines and orders are imposed
9 and collected.

10 (b) ~~The workgroup shall do all~~ workgroup's review may
11 include, among other issues as determined by the group, any of the
12 following:

13 (1) Evaluate the cumulative and marginal impact of statutorily
14 imposed restitution fines on the collection of the fines and the
15 offender's actual ability to pay.

16 (2) Evaluate the imposition of other fines and penalties and
17 how all of those fines and penalties interact and affect the
18 collection of the total imposed.

19 (3) Develop recommendations that are intended to improve the
20 effectiveness of the collection of fines for the victims of crime
21 program and increased collections for that program as well as the
22 other fines and penalties imposed on offenders.

23 (4) Consider the impact of increased imposition of fines and
24 penalties as an option to fund state programs.

25 (c) The workgroup shall be chaired by the ~~Director of the~~
26 ~~Administrative Office~~ Administrative Director of the Courts or his
27 or her designee. The workgroup shall be composed of
28 representatives of the courts, probation department, Department
29 of Corrections, the California Youth Authority, the California
30 Victim Compensation and Claims Board, Department of Finance,
31 the Attorney General, groups representing victims of crimes and
32 offender families, public defenders, district attorneys, the
33 Commission on Peace Officer Standards and Training, local
34 governments, the Legislative Analyst, and other groups as
35 determined by the chairperson.

36 (d) The workgroup shall report its findings and
37 recommendations to the Legislature no later than February 1,
38 2004.

39 ~~SEC. 10.~~

1 *SEC. 14. Section 1 of this bill shall become operative on*
2 *January 1, 2004.*

3 *SEC. 15.* This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety
5 within the meaning of Article IV of the Constitution and shall go
6 into immediate effect. The facts constituting the necessity are:

7 In order that the changes made by this act to the Victims
8 Compensation Program may take effect, the diversion restitution
9 fees imposed on criminal defendants may be increased, and a
10 workgroup be established to review the policies and processes by
11 which criminal fines and penalties are imposed may take effect, at
12 the earliest possible time, it is necessary for this act to take effect
13 immediately as an urgency statute.

